



CITY OF BRUNSWICK

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STANDARD OPERATING PROCEDURES ALLEY MAINTENENCE, CONSTRUCTION, CONVEYANCE, & ABANDONMENT/CLOSURE

Adopted January 1997
Re-formatted August 2004

LEGAL AUTHORITY

Section 16-3, (10), (13) and (15) of the Charter of the Town of Brunswick.

BACKGROUND

Creation of Alley Rights-of-Way

When a property owner, such as the Real Estate and Improvement Company of Baltimore, for example, develops a parcel of land, one of the first steps is to subdivide the land into property to be privately owned (lots) and land to be publicly owned (including rights-of-way). The establishment of rights-of-way (R/W) is considered a dedication, which can be viewed as an “offer” to the City. However, an offer is not valid unless it has been “accepted.” An alley R/W is not officially a part of the City’s street system unless it has been dedicated (established on a plat) and the City has accepted it, whether expressly or by implication. Expressed acceptance includes a public statement of acceptance by the Mayor & Council at a public meeting. Implied acceptance would include City maintenance of the alley R/W.

Ownership and Maintenance of Alley R/W

Accepted dedication of an alley R/W would not be considered the same as fee simple ownership unless a fee simple deed is executed. The acceptance of the R/W effectively transfers specific rights of the R/W from the developer to the City. This ownership, however, is subject to the rights of the general public (and not just the abutting property owners) to use the alley R/W’s for egress, ingress, or access under 2-114 of COMAR. Because the general public has these rights, the City government has a duty to maintain the alley so that it can be used for its intended purposes. Once an alley has been dedicated and accepted, it becomes a part of the City’s street or other infrastructure system. The City may refrain from accepting dedication of any R/W, or may accept dedication of any R/W at any time.

If an alley R/W has been dedicated but not accepted, the City government has no obligation to maintain the alley. The alley is still owned by the original developer, even though the original developer may have transferred some of their rights to a private property owner. In many cases, the original developer, when drafting deeds for the individual lots, will include in the deeds

covenants which give lot owners specific rights of access to the R/W. This is generally referred to as “deeded access.” Deeded access, and whether or not it has been granted, is relevant when considering the closure or conveyance of an alley R/W, but not necessarily when considering the opening of an alley.

Brunswick Alleys

The original plats of the City of Brunswick included many alleys which may or may not have been “opened” (meaning that the alley is actually established, whether paved or graveled or mowed). Those alleys which have not been opened are considered “paper” alleys, because although they were established on a plat and dedicated for public use, the City never accepted that dedication, and the alleys have never been opened. There are, however, many alleys that are paved or otherwise maintained by the City of Brunswick’s Public Works Department.

INCREASED MAINTENANCE FROM THE CITY

1. Requests for Increased Maintenance of Alleys: A property owner may request increased maintenance of an alley, which may include one or both of the following remedies:
 - A. Enforcement of Zoning Regulations: The Zoning Ordinance requires that property owners use only that property which they own. It is a violation of the Zoning Ordinance to place a structure in an alley. The City can address these types of requests through the use of the Zoning Ordinance violation citations process. The City has the right to require someone to move a structure that they have placed illegally, which can sometimes be expensive and difficult, and therefore controversial. However, if a written complaint of this kind is received, it will be handled by the Planning & Zoning Administrator. Serious complications in enforcing the regulations may be referred to the Mayor and Council.
 - B. Municipal Maintenance of Alleys: Another method to ensure access to alleys is to maintain them so that they are usable. The Public Works Department currently maintains City accepted or owned property, and could, if necessary, increase the level of maintenance of currently maintained alleys by mowing, removing trees, bushes, and weeds, paving, etc. Requests of this sort should be handled using the following procedure:
 - (1) The applicant should complete a Citizen’s Concern Form and submit it to the Public Works Administrator at least 2 weeks prior to the Mayor and Council meeting at which the request will be discussed.

- (2) The applicant's request will be placed on the agenda for a future Council meeting, after agency comments are received. At that meeting, the applicant should present to the Mayor and Council a petition for increased maintenance of the alley. The petition shall include:
 - a. Reason for the request;
 - b. Level to which the property owners request the alley to be maintained; and
 - c. Printed name, address, and signature of every owner of property abutting the alley R/W on that block.
 - (3) The Mayor and Council will hear staff recommendations from the City Administrator, Superintendent of Public Works, Planning & Zoning Administrator, City Engineer, and City Attorney, if necessary.
 - (4) The Mayor and Council will consider the request and the staff recommendations and make a decision on the request.
2. Requests for Municipal Construction of Alleys: A property owner may request that the City construct an alley where a paper alley currently exists. The following procedure should be followed:
 - (1) The applicant should complete a Citizen's Concern Form and submit it to the Public Works Administrator at least 1 month prior to the Mayor and Council meeting at which the request will be discussed.
 - (2) The applicant's request will be placed on the agenda for the following meeting. At that meeting, the applicant should present to the Mayor and Council a petition for construction of the alley. The petition shall include:
 - a. Reason for the request;
 - b. Level to which the property owners request the alley to be improved and maintained; and
 - c. Printed name, address, and signature of every owner of property abutting the alley R/W on that block.
 - (3) The Mayor and Council will hear staff recommendations from the City Administrator, Superintendent of Public Works, Planning & Zoning Administrator, City Engineer, and City Attorney, if necessary.
 - (4) The Mayor and Council will consider the request and the staff recommendations and make a decision on the request at a meeting subsequent to the meeting at which the request was made.

- (5) If the Mayor and Council approve the request, the alley R/W will have to be surveyed, and an Improvement Plan submitted to the Planning Commission for review if it is part of the Site Plan or development process, or submitted for Administrative Plan Review and Approval. The cost of the survey and Improvement Plan will be the responsibility of the City.

CONVEYANCE OF AN ALLEY R/W

The Mayor and Council may also convey a dedicated right and accepted alley to a private property owner (the applicant) if they find that it is no longer necessary for public use. If any property owners have deeded access, the applicant must obtain those rights from those property owners with deeded access. If the alley R/W has never been accepted, the applicant would have to obtain the alley R/W through the original developer, or the heirs of that developer. They would also have to obtain the deeded access rights from the other property owners, if that was the case. The Mayor and Council may, for the purposes of conveyance of an alley R/W, accept dedication of the R/W.

Requests for Conveyance of an Alley R/W to a Private Property Owner: A private property owner may seek to obtain ownership of alley R/W property. Only requests from property owners whose property abuts the R/W should be allowed to make such requests, and then they should only be allowed to request conveyance of that portion of the R/W to which their property abuts.

1. The applicant should complete a Citizen's Concern Form and submit it to the Public Works Administrator at least 1 month prior to the Mayor and Council meeting at which the request will be discussed.
2. The applicant's request will be placed on the agenda for the following meeting. At that meeting, the applicant should present to the Mayor and Council a petition for the conveyance of the alley. The petition should be accompanied by a survey of the property completed by a licensed property line surveyor, and shall include:
 - a. Reason for the request;
 - b. Printed name, address, and signature of every owner of property abutting the alley R/W on that block; and
 - c. Written consent from the property owner to convey fee simple title to the applicant, or the applicant may request that the Mayor and Council accept dedication of the alley R/W for the purpose of conveying fee simple title or a quit-claim deed to the property to the applicant.
3. The Mayor and Council will hear staff recommendations from the City Administrator, Superintendent of Public Works, Planning & Zoning Administrator, City Engineer, and City Attorney, if necessary.

4. The Mayor and Council will consider the request and the staff recommendations and make a decision on the request at a meeting subsequent to the meeting at which the request was made.
5. If the Mayor and Council approve the request, they will make a public statement that they have found that there is no longer a public need for the property, and that they consent to convey fee-simple title or a quit-claim deed to the applicant.
6. The applicant will submit an Addition Plat for review and approval by the Planning Commission, and secure the conveyance of access rights and fee simple title within 1 year of the Mayor and Council's decision. All engineering and legal fees will be the responsibility of the applicant. The agreement between the City and the applicant will become null and void if the Addition Plat has not been recorded in the Frederick County Land Records within that year.

ABANDONMENT/CLOSURE OF AN ALLEY R/W

The Mayor and Council may "abandon" / "close" a dedicated and accepted alley if they make a finding that the alley R/W is no longer necessary for public use. The City will not be liable to a private property owner abutting the alley as long as the private property has frontage on a public street in which the owner can access the property.

Requests for the Mayor and Council To Close an Alley: A private property owner may request that an alley be closed, and no longer made available for public use. Only requests from property owners whose property abuts the R/W should be allowed to make such requests, and then should only be allowed to request closure of that portion of the R/W in which they have an interest.

1. The applicant should complete a Citizen's Concern Form and submit it to the Public Works Administrator prior to the Mayor and Council meeting.
2. The applicant's request will be placed on the agenda for a future meeting after agency comments are received. At that meeting, the applicant should present to the Mayor and Council a petition for the closure of the alley. The petition shall include:
 - a. Reason for the request;
 - b. Printed name, address, and signature of every owner of property abutting the alley R/W on that block.
3. The Mayor and Council will hear staff recommendations from the City Administrator, Superintendent of Public Works, Planning & Zoning Administrator, City Engineer, and City Attorney, if necessary.

4. The Mayor and Council will consider the request in accordance with the requirements to abandon a public right-of-way and the staff recommendations and make a decision on the request.
5. If the Mayor and Council approve the request, they will make a public statement that they have found that there is no longer a public need for the property, and that they consent to the closure of the R/W.

Copies of the Rules, Regulations, Manuals, Forms, etc., are available online at www.brunswickmd.gov or in the Information Distribution Rack at City Hall.

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